

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.8968 of 2005

M/s.Shastrī Shikshan Sansthan & ors. Petitioners

Vs.

Smt.Sudharani Satish Mishra & ors.

Respondents

Mr.S.J.Panicker for petitioners.

Mr.M.P.Vashi i/b. M/s.M.P.Vashi & Associates for
respondent nos.1 and 4.

Mr.S.R.Nargolkar, AGP for Resp.Nos.2 and 3.

CORAM: B.H.MARLAPALLE,J.

August 18, 2006.

P.C.

. Heard the learned counsel for the respective parties. The petitioner-management is aggrieved by the judgment and order of the School Tribunal rendered on 18th November 2005 thereby allowing Appeal No.126 of 1999. The order of termination dated 12/10/1999 was set aside by the School Tribunal and the appellant-teacher who is respondent no.1 in this petition has been directed to be reinstated with all consequential benefits including continuity of service and backwages.

. The reasoning set out by the School Tribunal after considering the rival submissions made and the

documents placed on record in support of the order passed, does not call for any interference under the supervisory powers of this Court under Article 227 of the Constitution.

. However, the learned counsel for the petitioner - management raised the issue of conducting a fresh enquiry against the respondent no.1 on the basis of the charge-sheet dated 8th July 1999. It is well recognised that if the findings in the departmental enquiry are found to be perverse or if the enquiry was held to be against the principles of natural justice or in violation of the prescribed Rules, the employer's right to conduct a de novo enquiry is not taken away. The charge-sheet dated 8th July 1999 sets out about 25 charges and Mr. Vashi, the learned counsel for the respondent nos.1 and 4 has rightly pointed out that some of them are as vague as they could be. The management has placed before me an affidavit today and in fact what the enquiry committee recorded in respect of these charges is immaterial.

. In case the management desires to proceed with a de novo enquiry it is necessary that a fresh

charge-sheet setting out specific charges will have to be issued and in any case not new charges. If such a fresh charge-sheet is issued within a period of four weeks from today, it is directed that the enquiry committee in keeping with the Rules will be constituted after the respondent no.1 submits her explanation to the charge-sheet and the enquiry shall be conducted as expeditiously as possible and preferably within a period of six months.

. Save and except the above clarification the petition is disposed off. The amount deposited is allowed to be withdrawn.

. Oral application for stay is hereby rejected.

(B.H.MARLAPALLE,J.)